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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,758	04/03/2001	Tiffany A. Thompson	108.0005-00000	7310

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EXAMINER	
NGUYEN, TRI V	
ART UNIT	PAPER NUMBER
1751	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/825,758	THOMPSON ET AL.	
	Examiner	Art Unit	
	Tri V. Nguyen	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 January 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,8 and 11-68* is/are pending in the application.

4a) Of the above claim(s) *49-68* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,8 and 11-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 14th 2005 has been entered.

Response to Amendment

2. In the amendment filed on January 10, 2007, Claims 1-6, 8, 16, 19-21, 25 and 42 were amended and Claims 7, 9 and 10 were canceled. Claims 49-68 were previously withdrawn. Therefore, the currently pending claims considered below are Claims 1-6, 8 and 11-48.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 11, 16, 18, 19, 21, 23, 25-27, 30, 35, 36, 38 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim et al. (US 2002/0052925).

Claim 1: Kim et al. disclose a method for delivering advertising content to a visual display adapted to display a user interface for use by a user, said method comprising the steps of:

a. Detecting a user session, the session commencing upon the user interacting with the user interface, the user interface being a graphical display software presented on the display (see at least parag. 77-81 and 145-147);
b. Starting an ad timer upon the user making a request for user requested content by interacting with the user interface, the ad timer being set for an interval of time (see at least parag. 77-81 and 145-147);
c. Determining if the interval of time of the ad timer has elapsed when the user makes a subsequent request for user requested content by interacting with the user interface (see at least parag. 77-81 and 145-147);
d. Interrupting delivery of the user requested content to the visual display to deliver the advertising content if the interval of time of the ad timer has elapsed (see at least parag. 77-81 and 145-147);
e. Resetting the ad timer after the delivery of the advertising content is complete (see at least parag. 77-81 and 145-147); and
f. Delivering the user requested content to the visual display (see at least parag. 77-81 and 145-147).

Claims 2 and 3: Kim et al. disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses commencing the detecting step upon an initial interaction by the user, such as selecting content through the interface (see at least parag. 77-81 and 145-147).

Claims 4: Kim et al. disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses the interval being fixed (see at least parag. 77-81 and 145-147).

Claim 11 : Kim et al. disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses the delivery medium being at least one of the Internet, cable, digital subscriber line, and wireless (see at least parag. 77-81 and 145-147).

Claim 16: Kim et al. disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses repeating the timing, determining, and delivering steps (see at least parag. 77-81 and 145-147).

Claim 18: Kim et al. disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses the advertising content includes a link to at least one Internet address (see at least parag. 77-81 and 145-147).

Claim 19: Kim et al. disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses the user interacting via a keyboard (see at least parag. 77-81 and 145-147).

Claim 21: Kim et al. disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses the user interacting via a link to another web page (see at least parag. 77-81 and 145-147).

Claim 23: Kim et al. disclose the method of claim 1, further comprising the step of delivering video content to the user(see at least parag. 77-81 and 145-147).

Claim 25: Kim et al. disclose a method for delivering advertising content to a visual display adapted to display a user interface for use by a user, said method comprising the steps of:

a. Detecting the user's interaction with the user interface(see at least parag. 77-81 and 145-147);
b. measuring an amount of time between the user's interactions with the user interface (see at least parag. 77-81 and 145-147); and
c. launching the advertising content to the visual display after a selected elapsed interval of time if the user's interaction with the user interface occurs during the selected elapsed interval of time (see at least parag. 77-81 and 145-147).

Claim 26: Kim et al. disclose the method of claim 25, wherein said measuring step commences upon the user selecting content through the user interface (see at least parag. 77-81 and 145-147).

Claim 27: Kim et al. disclose the method of claim 25, further comprising the step of delivering the advertising content to the visual display (see at least parag. 77-81 and 145-147).

Claim 30: Kim et al. disclose the method of claim 27, wherein said delivering step delivers the advertising content over at least one of the following mediums: Internet, cable, digital subscriber line, and wireless (see at least parag. 77-81 and 145-147).

Claim 35: Kim et al. disclose the method of claim 25, wherein after completion of said launching step, said measuring and launching steps are repeated (see at least parag. 77-81 and 145-147).

Claim 36: Kim et al. disclose the method of claim 25, wherein the measuring step includes the user interacting with the user interface via a keyboard (see at least parag. 77-81 and 145-147).

Claim 38: Kim et al. disclose the method of claim 25, wherein the measuring step includes the user interacting with the user interface via a link to another web page (see at least parag. 77-81 and 145-147).

Claim 40: Kim et al. disclose the method of claim 25, further comprising the step of delivering video content to the user (see at least parag. 77-81 and 145-147).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 5, 6, 8, 22, 24, 28, 29, 39, 41, 42, 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. (US 2002/0052925).

Claims 5, 6 and 8: Kim et al. disclose a method for delivering advertising content to a user as in Claims 1 and 4 above, but do not explicitly disclose that the fixed time interval is 5 minutes or a variable interval depending on the user session. The Examiner notes that the Applicant has not disclosed, nor discussed, any reason for or advantage in setting the length to exactly 5 minutes instead of 4 minutes or 30 seconds, or any other time; thus, the selection of 5 minutes or a variable time is seen as an optimization result variable decision which is given little, if any, patentable weight. It would have been obvious to one having ordinary skill in the art at the time the invention was made to allow the designer to set the interval to 5 minutes or any other desired elapsed time interval. One would have been motivated to set the interval to a specific time, such as 5 minutes, in view of Kim et al.'s disclosure of displaying after a predetermined time such as 3 minutes (parag. 81).

Claims 22 and 39: Kim et al. disclose a method for delivering advertising content to a user as in Claims 1 and 25 above, but does not explicitly disclose that the advertising content is delivered after the second interaction by the user. However, the Examiner notes that this is a an optimization result variable decision and that the frequency of presentation of the advertising content may be set at any desired level by the entity setting up the system, such as after every interaction, every other interaction, every third interaction, etc. without affecting the other steps of the claims. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to set the frequency in Kim et al. to every two interactions. One would have been motivated to set the frequency at every two interactions to prevent overloading the user with advertising content.

Claims 24, 41 and 48: Kim et al. disclose a method for delivering advertising content to a user as in Claims 23, 40 and 42 above, but do not explicitly disclose delivering (displaying) the

advertising content to the user after completion of the video content in order to create a commercial-free video. However, the Examiner notes that the content of the website or advertising material (for example both the content of the website and the advertisement can be in the form of a video) are construed as nonfunctional descriptive material which is given little, if any, patentable weight and does not affect the method steps of the claims. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to deliver the content of the advertising material after a video playback.

Claims 28 and 29: Kim et al. disclose a method for delivering advertising content to a user as in Claim 27 above, and but do not explicitly disclose further pausing the timing step during the delivery of the advertising content and un-pausing the timing step after the delivery is completed. The Examiner notes that the Applicant has not disclosed, nor discussed, any reason for or advantage in the pausing function of the timer. Kim et al. disclose that the length of time is predetermined. The examiner construes the timing step as an optimization result variable decision which is given little, if any, patentable weight. It would have been obvious to one having ordinary skill in the art at the time the invention was made to allow the designer to pause and un-pause the set the interval to any desired elapsed time interval. One would have been motivated to set the interval to a specific time with or without un-pausing the timer in view of Kim et al.'s disclosure of displaying after a predetermined time such as 3 minutes (parag. 81).

Claim 42: Kim et al. disclose a method for delivering advertising content to a visual display adapted to display a user interface for use by a user, said method comprising the steps of:

g. time-stamping a user session profile during a user session, the user session commencing upon the user interacting with the user interface;
h. detecting an address for contents requested by the user(see at least parag. 77-81 and 145-147);
i. saving the address requested by the user and interrupting the delivery of the contents of the address if a selected interval of time has elapsed since said time-stamping step (see at least parag. 77-81 and 145-147);

j. delivering the advertising content to the visual display, the delivering of the advertising content to the visual display being uninterruptible by the user for a selected period of time (see at least parag. 77-81 and 145-147); and

k. sending the contents of the address requested by the user to the visual display(see at least parag. 77-81 and 145-147).

Kim et al. disclose the method of presenting advertisement but do not explicitly disclose the time stamp and the saving of the address. However, the Examiner notes that since Kim et al. teach a timer to schedule the presentation of the advertising content, it would have been obvious to a skilled artisan to use a time stamp as a marker. One would be motivated to efficiently track the elapsed time and gain information on information retrieval and delivery.

Claim 47: Kim et al. disclose the method of claim 1, further comprising the step of delivering video content to the user(see at least parag. 77-81 and 145-147).

7. Claims 15, 34 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. in view of Cannon et al (US 2002/0016736).

Claims 15, 34 and 46: Kim et al. disclose the method for delivering streaming video advertising content to a user as in claims 1, 27 and 42 but do not explicitly disclosed that user interface functions are suspended during the delivery step. In a related art, Cannon discloses a similar method for delivering advertising content to a user in which displays an advertisement "that the user cannot remove or reduce in size" (page 2, paragraph 0018) and that "the supplemental content is displayed such that it cannot be shut-off or the display of the supplemental content closed before is has been displayed (page 15, paragraph 00175). Cannon discloses several methods of preventing the user from using the interface functions to remove, reduce, shut-off, or closed, such as using Java code. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to suspend the user interface functions in Kim et al. while the advertising content was being delivered to the user. One would have been motivated to suspend their functions in order to ensure that the user had been exposed to the entire advertising content.

8. Claims 12-14, 31-33 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. in view of Capek et al (6,094,677).

Claims 12-13, 31-32 and 43-44: Kim et al. disclose a method for delivering advertising content to a user as in the above Claims but do not explicitly disclose that the streaming video is broadcast quality video. The Examiner notes that the quality of the video does not affect the step of delivering the video advertising content to the user. Furthermore, Capek discloses a similar method for delivering streaming video advertising content to a user in which the streaming video is broadcast quality video (col 12, lines 64 - col 13, line 6). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to deliver broadcast quality video advertising content to the user in Kim et al. One would have been motivated to deliver broadcast quality video in order to present the user with the clearest and most legible advertising copy as possible.

Claims 14, 33 and 45: Kim et al. disclose a method for delivering advertising content to a user as in the above Claims but do not explicitly disclose that the video is delivered at a bit rate of at least 144 Kbps. The Examiner first notes that the speed of delivery through the Internet is based on the slowest connection during the transmission and that this connection is dynamic in that the connecting nodes are constantly changing. Thus, while it may be desired that the delivery rate does not fall below 144 Kbps, it cannot be assured when connecting through the Internet. Additionally, Official Notice is taken that it is old and well known to transmit streaming video at as high of bit rate as possible to prevent the video presentation from jerking or freezing. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to deliver the streaming video at 144 Kbps or faster, whenever possible. One would have been motivated to maintain this transmission speed in order to prevent jerking or freezing of the video presentation as discussed by Kim et al.

9. Claims 17, 20, 34 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. in view of Slotznick (6,OI 1,537).

Claim 17: Kim et al. disclose a method for delivering advertising content to a user as in Claim 1 above, but do not explicitly disclose that the advertising content completely fills the visual display. However, Slotznick discloses a similar method for delivering advertising content to a user in which the advertising content fills the entire display screen (visual display)(col 23, lines 11-16 and col 24, lines 23-28). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to cover the entire visual display of

Kim et al.'s user with the advertising content. One would have been motivated to cover the entire visual display in view of Kim et al's disclosure that the advertising content will be display prior to displaying the requested content. Having the advertising content cover the entire visual would eliminate any "dead" or "blacked-out" areas of the display while waiting for the requested content to be displayed.

Claim 20 and 37: Kim et al. disclose a method for delivering advertising content to a user as in Claims 1 and 25 above, but do not explicitly disclose the user interacting with the user interface via a voice-activated device. However, Slotznick discloses a similar method for delivering advertising content to a user in which the user may interact with the user interface by "speaking a command to a device equipped with a voice recognition module" (col 13, lines 21 - 25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a voice-activated interfacing device in Kim et al. One would have been motivated to use a voice-actuated device in order to allow the system to be used by physically disabled users and by users who need a hands-free means for entering data, such as users who are driving vehicles.

Response to Arguments

10. Applicant's arguments with respect to claims 1-6, 8 and 11-48 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Pieper, Keith. "Interstitial Advertising" 2nd edition, November 99, taken from www.keithPieper.com.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri V. Nguyen whose telephone number is (571) 272-6965. The examiner can normally be reached on M-F 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029 and Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NVT

NVT, Phd
March 30, 2007

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